

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 24TH DECEMBER 2007 / 3RD POUSHA 1929

WP(C).No. 38203 of 2007(W)

AGAINST THE ORDER IN IA.617/2007 IN
AS.114/2006 of SPL. COURT (NDPS ACT CASES), THODUPUZHA
OS.45/2004 of MUNSIF COURT, THODUPUZHA
(EP.91/2006)
.....

PETITIONERS:

1. THOMAS, S/O.JOSEPH,
AGED 44 YEARS, KODAMULLIL HOUSE,
THEKKUMBHAGOM P.O., KARIKODE KARA,
KARIKODE VILLAGE, THODUPUZHA TALUK.
2. MERCY, W/O.THOMAS,
KODAMULLIL HOUSE, THEKKUMBHAGOM P.O.,
KARIKODE KARA, KARIKODE VILLAGE,
THODUPUZHA TALUK.

BY ADVS. SRI.VIJU ABRAHAM
SRI.JOY C. PAUL
SRI.DOMINIC JOHNSON
SMT.M.SRUTHY

RESPONDENT:

JOHN OUSEPH, S/O.OUSEPH,
AGED 41, KODEMULLIL HOUSE, THEKKUMBHAGOM PO.,
KARIKODE KARA, KARIKODE VILLAGE,
THODUPUZHA TALUK.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

HARUN-UL-RASHID, J.

W.P.(C) NO. 38203 OF 2007

Dated this the 24th day of December, 2007

JUDGMENT

The petitioners are the defendants in O.S. No.45 of 2004 on the file of the Munsiff's Court, Thodupuzha. The respondent herein is the plaintiff. The suit was decreed. Ext.P2 is the judgment dated 31.7.2006. Challenging Ext.P2 judgment, the petitioners preferred A.S. No.114 of 2006 before the District Court, Thodupuzha which was made over to Additional District Court (III) NDPS, Thodupuzha. The petitioners also moved I.A. No.617 of 2007 in the Appeal Suit for stay of further proceedings in E.P. No. 91 of 2006 in O.S. No. 45 of 2004 Ext.P4 is the stay application. The said application was finally heard on 19.12.2007 and was reserved for pronouncing orders.

2. The petitioners now submit that they are awaiting orders from the appellate court in the interlocutory application. In the meanwhile, the learned Munsiff, as per order in E.P. No.91 of 2006 in O.S.No.45 of 2004, issued direction to the petitioners to take steps to reconnect the electric supply and appointed an Amin to install a motor and pump set and

permitted the decree holder/respondent to reconstruct the pump house. The learned Munsiff also issued notice to the petitioners under order 21 Rule 37 C.P.C for violation of the orders issued by the court. Learned counsel for the petitioners submits that if the direction issued by the learned Munsiff is implemented, the appeal and the proceedings therein will become infructuous and that implementation of such an order pending the appeal will cause irreparable injury and hardship to them.

3. In the facts and circumstances stated above, I am of the view that keeping in abeyance of the execution proceedings till orders are passed by the appellate court in I.A. No.617 of 2007 in A.S. No.114 of 2006 will serve the ends of justice. Accordingly, I direct the Munsiff's Court, Thodupuzha to keep in abeyance all further proceedings pursuant to the order passed in E.P. No.91 of 2006 in O.S. No.45 of 2004 pending orders in I.A. No.617 of 2007 in A.S. No. 114 of 2006 on the file of the Additional District Court (III)0 NDPS, Thodupuzha.

The Writ Petition is disposed of as above.

(HARUN-UL-RASHID, JUDGE)

sp/

**KURIAN JOSEPH &
HAURN-UL-RASHID, JJ.**

L.A.A.NO

JUDGMENT

4TH DECEMBER, 2007